

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA
VIDAL, *et al.*,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, *et al.*,

Defendants.

No. 16-cv-4756 (NGG) (VMS)

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., *et al.*,

Defendants.

No. 17-cv-5228 (NGG) (VMS)

NOTICE

Defendants respectfully notify the Court that, late in the evening on Friday, August 13, 2021, counsel for the *Batalla Vidal* Plaintiffs emailed counsel for Defendants to inquire about an individual who had not yet received his updated Employment Authorization Document (EAD), even though the expiration date showing¹ on his his current 1-year EAD was less than 30 days away. Counsel for Defendants responded by committing to looking into the matter immediately,

¹ Defendant USCIS had previously updated its systems and extended employment authorization by one year through a notice informing the individual of the extension of both his DACA and employment authorization. *See* ECF No. 362.

and forwarded the inquiry to U.S. Citizenship and Immigration Services (USCIS) early in the morning of Saturday, August 14.

In response to this inquiry, on Monday, August 16, USCIS informed counsel for Defendants that USCIS believed that it had identified an inadvertent computer coding error that may have delayed the processing or mailing of some of the new 2-year EADs with the expiration date corresponding to the extension of employment authorization as required by this Court's December 10, 2020 Order, *Batalla Vidal* ECF No. 359, including the EAD of the individual that Plaintiffs' counsel had inquired about. USCIS is currently working diligently to determine the scope of the error, and to promptly rectify any error.

USCIS has extended employment authorization for the full two years for each of the DACA recipients covered by the Court's order and issued a corresponding extension notice to each recipient. *See* ECF No. 362. The recipients may continue to show their unexpired 1-year EADs along with their USCIS extension notices to their employers for completion of Form I-9, *Employment Eligibility Verification*. Information on the continued validity of the affected 1-year EADs is also available for employers and DACA recipients on USCIS' website at <https://www.uscis.gov/i-9-central/form-i-9-related-news/completing-form-i-9-for-employees-with-extended-work-authorization-under-daca>.

Although USCIS's inquiry is ongoing, counsel for Defendants felt it prudent to provide this notice to the Court and to the Plaintiffs before USCIS concluded its inquiry. Counsel for Defendants will provide a further update within seven days.

Dated: August 17, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

JACQUELYN M. KASULIS
Acting United States Attorney

BRAD P. ROSENBERG
Assistant Branch Director

/s/ Rachael L. Westmoreland
GALEN N. THORP
Senior Trial Counsel
STEPHEN M. PEZZI
RACHAEL L. WESTMORELAND
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 305-8576
Fax: (202) 616-8470
Email: stephen.pezzi@usdoj.gov

JOSEPH A. MARUTOLLO
Assistant U.S. Attorney
United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th Floor
Brooklyn, NY 11201
Phone: (718) 254-6288
Fax: (718) 254-7489
Email: joseph.marutollo@usdoj.gov

Attorneys for Defendants